

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

T= Organization
V= Test
W = Scholarship Program
X= Test
Y= Organization
z dollars = Amount

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

Our determination

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(b)).

Description of your request

Your letter indicates you will operate an employer-related scholarship program called W. The purpose of W is to implement a scholarship program for children of employees of T through Y's Merit Special scholarship program.

You will enter into an agreement with Y to sponsor six one-time college scholarships for children of regular, full-time employees of you or your subsidiaries. The scholarships will

be nonrenewable awards in the amount of z dollars. Interested students should enter the nationwide scholarship competition by taking a test called the V. The students who score within the top one-half of one percent on a state-by-state basis are semifinalists and they can advance to finalist level by confirming their scores on a second test, the X. The students must also submit an entry form including a high school record provided by high school officials showing strong academic performance, a personal essay, extra-curricular accomplishments, and a recommendation from their high school principal or a school official designated by the principal.

Recipients will be selected by an independent selection committee of Y from the children of employees who attain the finalist level. Recipients will be chosen on a competitive basis and without regard to family financial circumstances, gender, race, ethnic origin, or religious preference. Recipients will be selected based on an evaluation of high school academic record, significant activities and contributions to the school and community, test scores, the school's recommendation of the candidate, and the student's essay about personal characteristics, activities, plans, and goals.

The scholarship selection procedures state that the scholarships comply with the facts and circumstances test under Section 4 of Rev. Proc. 76-47 because the probability of attaining finalist level and being eligible for a scholarship is extremely low, Y will select additional scholarship recipients if the number of children who qualify as finalists is less than the number of scholarships you are sponsoring. The special scholarship recipients will be selected from high performing students below the finalist level and the number of special scholarship recipients is limited to not more than 25% of the eligible applicants in accordance with section 4.08 of Rev. Proc. 76-47.

For all scholarship recipients, Y confirms the enrollment of recipients at a college or university in the United States that holds accredited status with a regional accrediting commission on higher education, makes payment of the scholarship award through the financial aid office of the educational institution, and supervises and investigates the use of the scholarships by the recipients in their educational programs. Scholarship funds should only be used to pay educational costs at an institution that meet the requirements of section 170(b)(1)(A)(ii) of the Code. Recipients must attend college during the day, enroll in a course of study leading to one of the traditional baccalaureate degrees, and remain in good academic and disciplinary standing.

You will not use the scholarships as a means of inducement or to recruit employees. A student's eligibility will not be conditioned on any employment related factors such as a parent's position, service, or duties and the prior employment period for establishing eligibility will not exceed three years. You determine a student's eligibility at the time the scholarship is offered and Y will not offer any student a scholarship without your confirmation of eligibility. A scholarship will not be terminated if a student's parent or relative subsequently terminates employment.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

Other conditions that apply to this determination:

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at::

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements